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Iris Benöhr, *EU Consumer Law and Human Rights*. Oxford: Oxford University Press, 2013. 239 pages. ISBN: 978-0-19-96597-9. GBP 60.

In the monograph reviewed here, Benöhr argues that market integration is no longer the only driving force behind EU consumer law. Thus, according to the author, a gradual shift towards a new framework for consumer law is becoming apparent; one that takes into account fundamental rights, social inclusion, responsible and sustainable consumption. The author demonstrates this paradigm shift by providing a detailed analyses of the evolution of EU consumer law. She provides a descriptive account of the EU competences regarding consumer law and the influence of the Charter of Fundamental Rights, which has binding legal nature since the Lisbon Treaty. In addition, there is a rough sketch of the international law context and the influence of constitutional rights and principles. Most notable is the introduction of a “Solidarity” chapter in the Charter of Fundamental Rights. Although, Article 38 in this chapter expressly aims at consumer protection; it however only has the status of a “principle”. Benöhr is strongly of the opinion that this status will not prevent the provision from evolving in the future and becoming more concrete. The paradigm shift is moreover examined from a wider perspective, for instance, that of the transformed role of the consumer, Sen’s capability approach and Habermas’ discourse theory. The first theory stresses the importance of capability, freedoms and responsibility; which can relate to a human rights approach to consumer law. The second theory underlines the concept of participation (related to the legitimacy deficit of the EU institutions), information and procedural rights.

The author complements the theoretical analysis with a part that concentrates on the practical implications of the new human rights-based consumer law model. Financial services and electronic communication, which are two important areas of consumer law, serve as examples illustrating the new model. In the area of financial services there is a focus on information duties through the 2008 Credit Agreement Directive. Nevertheless, there are questions regarding the effectiveness of this approach with respect to over-indebtedness and financial exclusion. By declaring a provision of a directive invalid on the grounds of the principle of non-discrimination, as enshrined in basic treaty provisions and the Charter, the *Test-Achats* case shows that the Charter plays an increasingly important role in assessing the validity of secondary law. Furthermore, the author pleads with regard to financial services (amongst others) for an enhanced focus on financial literacy and education, for the protection of consumer guarantors and the possibility of a fresh start in consumer bankruptcy. In the area of electronic communications, fundamental rights often conflict with each other. While telecommunication is an essential right for individuals (freedom to receive and impart information), there are mounting concerns about data protection, unfair terms in the telecommunication sector, misleading advertising and so forth. The *Promusicae* case shows that the right to protection of personal data and the freedom to receive or impart information can clash with the right to (intellectual) property. At the EU level there is a shift from a market-based approach towards a broader consumer-human right approach. The Charter of Fundamental Rights, the ECHR and Article 16 TFEU and the new Citizens’ Rights’ Directive of 2009 (improving two former directives) promote and enhance consumer protection by invoking human rights; namely, the right to privacy through data protection.

In the final chapter, the author analyses consumer access to justice and procedural rights. The author emphasizes that although the right to access to justice (right to fair trial, to have justice within a reasonable period and the right to an effective remedy) is officially recognized

as a human right, access to justice is not yet fully effective, especially in consumer cases. By exploring alternative techniques, such as collective redress procedures, ADR and ODR procedures the author explores ways to enhance access to justice for consumers. Further, the under-explored domain of litigation funding through contingency fees, conditional fee agreements, third party funding and legal expense insurance can contribute to access to justice for consumers.

Benöhr's book, based on a PhD thesis, is an innovative work, fusing two areas of law: EU consumer law and human rights. Although the nexus between them is perhaps obvious due to the fact that both areas of law aim to protect citizens; this book is a first of its kind, as it clearly and unambiguously makes the connection between EU consumer law and human rights apparent. Written in a fluent and well-structured style, the book is hinged on various aspects of EU consumer and fundamental rights law and EU policy. The monograph further deals with *ex officio* application of unfair terms, Alternative Dispute Resolution (ADR), the *Test-Achats* case, data protection, the positive and negative elements of the maximum harmonization policy, financial literacy of consumers and so forth. Benöhr's book will be of interest to many EU lawyers. The author also succeeds in clearly presenting the developments in these areas in the past, as well as dealing with the most recent ones. The book strongly focuses on EU human rights, and refers to the ECHR and UN developments in the field, but little attention is given to national (constitutional) human rights systems and the intertwinement with EU consumer law. In light of all of this, a thorough examination of the horizontal effect of human rights would have made the book stronger in its purpose. Since consumer law is primarily focused on horizontal relations (business-consumer), it would have been interesting to explore in depth the influence of human rights in private relations. One may indeed wonder, as Kumm once argued ("Who is afraid of the total constitution?", (2006) *German Law Journal*), whether the horizontal effect of human rights has as a result that all private law becomes a form of applied constitutional law. An exploration of this question would have made the intention of the author more clear: are consumer rights to be considered as human rights or are human rights to be considered as a tool to implement consumer rights? That being said, the book is mandatory literature for anyone who wants to explore the relationship between human rights and EU consumer law and for anyone who wants to understand the dynamics in the evolution of consumer law.

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